

AMENDED IN ASSEMBLY APRIL 27, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 933

Introduced by Assembly Member Keeley

February 25, 1999

An act to amend Sections 2554 and 6303 of the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 933, as amended, Keeley. Arbitration: domestic violence.

(1) Under existing law, in any case where the parties do not agree in writing to a voluntary division of the community estate, the issues of the character, value, and division of the community estate may be submitted by the court to arbitration for resolution, as specified.

This bill would ~~provide that~~, *prohibit submission to arbitration* if domestic violence between the parties is alleged or where a protective order, as specified, is in effect ~~and, unless the party protected by the order or alleging domestic violence in a written declaration under penalty of perjury so requests, the arbitrator shall meet with the parties separately and at separate times. The bill would also require the court to advise the parties of this right to separate arbitration meetings. Because this bill would expand the crime of perjury it would impose a state-mandated local program.~~

(2) Existing law authorizes a party, who is protected by a protective order relating to alleged domestic violence, to be

accompanied by a support person during any mediation orientation or session held pursuant to specified family law proceedings.

This bill would expand that authorization to any arbitration orientation or session held pursuant to ~~those arbitration proceedings described in (1) above.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2554 of the Family Code is
2 amended to read:

3 2554. (a) Notwithstanding any other provision of this
4 division, in any case in which the parties do not agree in
5 writing to a voluntary division of the community estate of
6 the parties, the issue of the character, the value, and the
7 division of the community estate may be submitted by the
8 court to arbitration for resolution pursuant to Chapter 2.5
9 (commencing with Section 1141.10) of Title 3 of Part 3 of
10 the Code of Civil Procedure, if the total value of the
11 community and quasi-community property in
12 controversy in the opinion of the court does not exceed
13 fifty thousand dollars (\$50,000). The decision of the court
14 regarding the value of the community and
15 quasi-community property for purposes of this section is
16 not appealable.

17 (b) The court may submit the matter to arbitration at
18 any time it believes the parties are unable to agree upon
19 a division of the property.

20 ~~(c) If the court submits~~ *Notwithstanding subdivisions*
21 *(a) and (b), the court shall not submit* the matter to
22 arbitration in a case in which domestic violence between
23 the parties is alleged, or where a protective order as

1 ~~defined in Section 6218 is in effect, at the request of the~~
2 ~~party protected by the order or alleging domestic~~
3 ~~violence in a written declaration under penalty of~~
4 ~~perjury, the appointed arbitrator shall meet with the~~
5 ~~parties separately and at separate times. The court shall~~
6 ~~advise the parties of their rights pursuant to this~~
7 ~~subdivision at the time it submits the matter to~~
8 ~~arbitration.~~ 6218 is in effect, unless affirmatively
9 requested by the party making the allegations of
10 domestic violence or protected by the protective order.

11 SEC. 2. Section 6303 of the Family Code is amended
12 to read:

13 6303. (a) It is the function of a support person to
14 provide moral and emotional support for a person who
15 alleges he or she is a victim of domestic violence. The
16 person who alleges that he or she is a victim of domestic
17 violence may select any individual to act as a support
18 person. No certification, training, or other special
19 qualification is required for an individual to act as a
20 support person. The support person shall assist the person
21 in feeling more confident that he or she will not be
22 injured or threatened by the other party during the
23 proceedings where the person and the other party must
24 be present in close proximity. The support person is not
25 present as a legal adviser and shall not give legal advice.

26 (b) A support person shall be permitted to accompany
27 either party to any proceeding to obtain a protective
28 order, as defined in Section 6218. Where the party is not
29 represented by an attorney, the support person may sit
30 with the party at the table that is generally reserved for
31 the party and the party's attorney.

32 (c) Notwithstanding any other provision of law to the
33 contrary, if a court has issued a protective order, a support
34 person shall be permitted to accompany a party
35 protected by the order during any mediation orientation
36 or mediation session, including separate mediation
37 sessions, ~~or any arbitration orientation or session,~~
38 ~~including separate arbitration sessions, held pursuant to~~
39 ~~a proceeding described in Section 3021. The agency~~
40 ~~charged with providing family court services shall advise~~

1 sessions held pursuant to a proceeding described in
2 Section 3021 or any arbitration orientation or session held
3 pursuant to Section 2554. The agency charged with
4 providing family court services, or the arbitrator, shall
5 advise the party protected by the order of the right to
6 have a support person during mediation or arbitration. A
7 mediator or arbitrator may exclude a support person
8 from a mediation or arbitration session if the support
9 person participates in the session, or acts as an advocate,
10 or the presence of a particular support person is
11 disruptive or disrupts the process of mediation—~~or~~
12 ~~arbitration~~. The presence of the support person does not
13 waive the confidentiality of the mediation—~~or arbitration~~,
14 and the support person is bound by the confidentiality of
15 the mediation or arbitration.

16 (d) In a proceeding subject to this section, a support
17 person shall be permitted to accompany a party in court
18 where there are allegations or threats of domestic
19 violence and, where the party is not represented by an
20 attorney, may sit with the party at the table that is
21 generally reserved for the party and the party's attorney.

22 (e) Nothing in this section precludes a court from
23 exercising its discretion to remove a person from the
24 courtroom when it would be in the interest of justice to
25 do so, or when the court believes the person is prompting,
26 swaying, or influencing the party protected by the order.

27 ~~SEC. 3. No reimbursement is required by this act~~
28 ~~pursuant to Section 6 of Article XIII B of the California~~
29 ~~Constitution because the only costs that may be incurred~~
30 ~~by a local agency or school district will be incurred~~
31 ~~because this act creates a new crime or infraction,~~
32 ~~eliminates a crime or infraction, or changes the penalty~~
33 ~~for a crime or infraction, within the meaning of Section~~
34 ~~17556 of the Government Code, or changes the definition~~
35 ~~of a crime within the meaning of Section 6 of Article~~
36 ~~XIII B of the California Constitution.~~